

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 319 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME TAX

Versus

KOSHALYA INVESTMENTS PVT. LTD.

Appearance:

MR MANISH R BHATT for Petitioner

MR RK PATEL and MR.B.D.KARIA for Respondent.

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE M.C.PATEL

Date of decision: 30/07/98

ORAL JUDGMENT (Per C.K.Thakkar,J.):

The following question is referred for the opinion of this Court:-

"Whether, the Appellate Tribunal is right in law and on facts in holding that there was no

transfer and consequently no capital gains tax liability when the assessee received certain shares of the amalgamated company in lieu of its holding in the amalgamating company?"

The matter was decided in favour of assessee in view of the earlier decision by the authorities, including the Income Tax Appellate Tribunal, and the concession made before the Tribunal. In fact, in COMMISSIONER OF INCOME-TAX v. LEENA SARABHAI (N.CH.), 221 ITR 520, when the matter reached this Court, in view of peculiar facts and circumstances, the question was left unanswered. In these circumstances, this reference also stands disposed of unanswered. In the facts and circumstances, no order as to costs.

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